

REMARKS

Applicant has rewritten all claims to define the invention more particularly and distinctly so as to overcome the technical rejections and define the invention patentably over prior art, and to address the claim rejections under 35 USC § 103(a).

I. Rejection of claim 7 is overcome:

Last OA rejected independent claim 7 on Berreklow in view of the patent of Bolduc et. al. Base claim 7 has been rewritten as new claim 20 to define patentability over these references or any combination thereof. Applicant requests reconsideration of this rejection, as now applicable to claim 20, for the following reasons:

1. Berreklow's invention mandates the presence of an outer flange that is "fitted or can be fitted on the outside of the tubular body and can be brought into contact around the connection opening, with the outside of the wall of the target vessel (claim 1 [column 28, line 40]).

In contrast, Applicant's invention does not incorporate such a limitation (Fig. 2). Nonetheless the utility of the invention is maintained as has been proved in experiments performed *in vivo* (unpublished data). Omission of an element and retention of its function is an indicia of patentability.

In Re. Edge, 359 F.2d 896, 149 U.S.P.Q. 556 (CCPA 1966).

2. The embodiments of Berreklow's invention (Figs. 6, 9a, 9b) most closely resembling Applicant's invention, are provided with an outer flange [14] that is saddle shaped (column 18, line 63). As confirmed by figs. 6, 9a 9b, the inventor envisages that the edge of the opening [21] in target vessel [2] will neatly slip into the slot created by the outer flange and arms [11] as the arms (and the attached outer flange) move to the "attachment position". As will be confirmed by any practitioner skilled in the art, this scenario can be a reality only with rigid bodies whose movements in space can be precisely controlled. Given that blood vessels are soft (viscoelastic) structures that are extremely difficult to hold immobile, and that the exact trajectory of the slot between the flange and arms is impossible to predict during deployment of the device, the edge of the opening [21] is more likely to be deflected and inverted or everted, with the consequent failure to achieve a leak-free anastomosis.

In contrast, the Applicant's invention does not include this feature in any of its embodiments, facilitating its use in practice as has been proved in the laboratory.

3. Furthermore in the embodiments of Berreklow's invention (Figs. 6, 9a,9b) most closely resembling Applicant's invention, the coupling piece (16) of is provided with a stop [27] that is serrated on its outer surface that engage the serrations on the inner surface of tubular body [30].

In contrast, the corresponding components of Applicant's invention (first element and second element respectively) are designed to function without these features (Figs. 2,8).

4. Furthermore, the preferred embodiment of Berreklow's invention consists of three components: tubular body [10], cylindrical bush [15] and coupling accessory [16] (Fig. 3; column 16, lines 17-14).

In contrast, the Applicant's invention serves its purpose despite having only two components: first element and second element (Figs. 2,3).

For the above reasons, the applicant submits that the specification and claim are now in proper form, and that the claims all define patentability over the prior art. Thus the application is believed to be in condition for allowance, which action is respectfully solicited.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

YOUNG & THOMPSON



Robert J. Patch, Reg. No. 17,355
745 South 23rd Street
Arlington, VA 22202
Telephone (703) 521-2297
Telefax (703) 685-0573
(703) 979-4709

RJP/fb